

Meeting of 2011-7-12 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JULY 12, 2011 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   Frank V. Jensen, City Attorney  
   Traci Hushbeck, City Clerk  
LT COL Kirchen, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:03 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Leonard Reimer, Faith Bible Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Michael Tennis, Ward Two  
Rosemary Bellino-Hall, Ward Three  
Jay Burk, Ward Four  
Rex Givens, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
   Doug Wells, Ward Eight

ABSENT:                      Bill Shoemate, Ward One

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Fitch requested item #16 be stricken from the agenda.

MOVED by Burk SECOND by Tennis to approve the consent agenda with the exception of item #16. AYE: Zarle, Haywood, Wells, Tennis, Bellino-Hall, Burk, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Judith Nazaryk for White Glove Realty, Inc. in the amount of \$1,200.00 (**Res. 11-57**) and Dan Hargett in the reduced amount of \$800.28 (**Res. 11-58**). Exhibits: Legal Opinions/Recommendations, Resolution No. \_\_\_\_ and Resolution No. \_\_\_\_.
2. Consider approving an Outside Water Sales Contract with Weldon Bruce, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk s Office.
3. Consider approving an Agreement for Limited Services between the Museum of the Great Plains Authority and the City of Lawton to fund the continued operation of the Museum, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
4. Consider approving an Agreement between the Lawton Chamber of Commerce Inc., and the City of Lawton to fund activities by the Chamber designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement and Proposed Budget.
5. Consider approval of an Agreement in Principal with the Lawton Fort Sill Chamber of Commerce for a Contract for Services with Bill Phelps & Associates, LLC, beginning July 1, 2011 through June 30, 2012, for the purpose of providing professional consulting/lobbyist services to the City and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Consultant Agreement.
6. Consider approval of the Arts & Humanities Division acceptance of the Local Government Challenge Grant

from the Oklahoma Arts Council (OAC) for the FY 2011-12. Exhibits: None at this time. Electronic contract will be accepted upon approval.

7. Consider approving the renewal of the annual lease agreement between the City of Lawton and the Delta Nutrition Project. Exhibits: Lease Agreement.

8. Consider approving the renewal of the annual lease agreement between the City of Lawton and the Crossroads Youth and Family Services Center, Inc., dba, Crossroads Head Start/ Early Head Start. Exhibits: Lease Agreement.

9. Consider approving a restricted access contract at Elmer Thomas Park with Windy 100 for the purpose of holding a sanctioned USA Cycling event in the park and the surrounding Lawton community beginning September 30 through October 2, 2011 and authorize the execution of such a contract for the given purpose. Exhibits: Windy 100 Proposal. Restricted Access Contract on file in City Clerk's office.

10. Consider approving an agreement between Claim Audit & Recovery Services (CARS) and the City of Lawton and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Agreement on file with the City Clerk.

11. Consider adopting **Street Light Resolution No. 471** to authorize the installation/removal of street lights at the location listed in the Resolution. Exhibits: Street Light Resolution No. 471.

12. Consider setting the date of August 23, 2011, to hold a public hearing and consider closing certain streets, alleys, and easements in the Downtown Redevelopment Project area. Exhibits: Location Map.

13. Consider accepting the Gore Overlay Project #2010-8 as constructed by T&G Construction, Inc. and placing the Maintenance Bond into effect. Exhibits: None.

14. Consider extending contract (CL10-044) Jail Food & Supplies to Indian Nation Wholesale of Durant, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

15. Consider awarding contract (CL11-044) Manhole Rings and Covers to Oklahoma Contractor's Supply of Oklahoma City, OK. Exhibits: Department Recommendation, Abstract, Price Sheet.

16. Consider approving appointments to boards and commissions. Exhibits: None. **(STRICKEN)**

17. Consider approval of payroll for the periods of June 27 July 10, 2011.

#### NEW BUSINESS ITEMS:

18. Hold a public hearing and consider authorizing application of the 2011 Department of Justice Edward Byrne Assistance Grant Local (JAG). Exhibits: None.

Assistant Chief James Apple, Lawton Police Department, stated the Lawton Police Department and the Comanche County Sheriff's Office have entered into this grant in the years past. They have worked out an agreement as far as an 80/20 split. The total of the award is \$113,639. The portion for the City of Lawton is \$90,911 and the Sheriff's department would receive \$22,728. As a requirement of the grant, the MOU must be approved by the City of Lawton and Comanche County. The grant money will be used to purchase equipment for the jail section and special operations unit.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Wells to authorize the Lawton Police Department to

apply for and accept the grant and the Mayor to sign the necessary forms. AYE: Haywood,

Wells, Tennis, Bellino-Hall, Burk, Givens, Zarle. NAY: None. MOTION CARRIED

19. Consider providing direction to staff to develop contracts with the Lawton Heritage Association, Lawton Community Theatre, Lawton Philharmonic Orchestra and Museum of the Great Plains to fund activities designed to encourage, promote and foster tourism in the city of Lawton. Exhibits: Support applications.

Givens distributed a pamphlet on the economic impact of non-profit and cultural organizations in Oklahoma. He stated these four organizations that are asking for funding, create 85 jobs, \$183,539 in household income, they create \$94,788 in local government revenue and they create \$172,424 in state revenue. That is a total of \$450,751 in economic impact in this community and in the state. The total request for funding from these organizations is \$155,000 which includes \$60,000 for Museum of the Great Plains, \$45,000 for LCT, \$30,000 for LPO and \$20,000 for LHA. He stated the fund is projected to have \$182,000 for the next fiscal year. He stated he would like to see the requests funded.

MOVED by Givens, SECOND by Haywood to direct staff to develop contracts with the Lawton

Heritage Association (\$20,000), Lawton Community Theatre (\$45,000), Lawton Philharmonic Orchestra (\$30,000) and Museum of the Great Plains (\$60,000) to fund activities designed to encourage, promote and foster tourism in the city of Lawton. AYE: Wells, Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood. NAY: None. MOTION CARRIED

20. Discuss funding assistance from the Lawton Hotel/Motel Economic Development Fund for beautification projects and maintenance undertaken by the Lawton Enhancement Trust Authority (LETA) and take appropriate action if necessary. Exhibits: None.

Burk stated he is the Chairman of LETA and he felt that what the authority has done has made a huge impact on the cleanliness and upkeep of this community. He distributed brochures on the dog park, which they matched with a \$5,000 grant. He stated they recently provided a matching grant of \$500 to a student from Cameron University for the Museum of the Great Plains Tree Tour. He stated in the past year they also did a middle school project with McArthur and Tomlinson Middle School to beautify the outside of their school on earth day. He stated they provided a \$500 matching grant per school. They also worked on the 38<sup>th</sup> Street ballpark project as well as a tree planting project on 38<sup>th</sup> Street. He stated LETA has an additional funding source with municipal tickets which raises approximately \$55,000 - \$60,000 per year. They also are provided funding with 5% of hotel/motel funds which gives them approximately \$110,000 - \$120,000 per year with both funding sources. The biggest accomplishment of LETA is the maintenance of the 21 vista sites. He thanked parks and recreation department for their assistance. He stated they would like to keep the maintenance contract which costs approximately \$100,000. Last year they received \$70,000 from hotel/motel economic development fund and they matched that sum with \$30,000. He stated if there is not funding available, he is requesting a commitment that they not be forgotten if at some point they request funding from the economic development fund for special projects.

Givens stated he understood there was almost a \$300,000 carry over from last year and there is another \$130,000 allocated this year. There should be over \$400,000 in that account.

Mayor Fitch stated this will be discussed in executive session.

Givens suggested they table this item until they have that discussion.

Wells stated fifteen years or so ago the Eisenhower seniors did a project where they put trees between 53<sup>rd</sup> and 67<sup>th</sup>. He stated a lot of those have been damaged or destroyed. He questioned if they could get those replaced.

Burk stated they would like to enhance a lot of the projects that we already have. The problem is that a lot of these areas don't have sprinklers available. He stated he would like to see the high schools involved in projects around the schools.

Kim Shahan, Parks and Recreation Director, stated that with that specific project there were 70 trees planted years ago but there was no sprinkler system and there is asphalt one foot under those trees. He stated that is why so many trees did not make it.

Mitchell questioned how the adopt a park program was working.

Shahan stated the interest is picking up but they are just now getting the information out.

Burk encouraged the council members to get out in their ward and talk with their neighborhood associations.

Shahan stated they should have a report on excess property to the council by the end of the month. This report should help the council assess whether to sell the property or dispose of the property.

Jensen stated they would just have to look at each dedication of the park land.

Burk stated LETA is also coordinating with Dr. Bellino on the Lee Boulevard project. They need to put sprinklers in those beds.

Wells questioned the location of that project. He stated LETA will also pick up the maintenance to take care of those beds. He stated he is not asking for a vote tonight on the \$70,000, but he could bring that back after the executive session item is discussed.

Mayor Fitch thanked council members Burk and Bellino for all of the time and effort they put into LETA and to Lawton Beautiful. After the merger of the two entities they have successfully completed good projects throughout the community. He stated they knew maintenance would be an issue and they elected to take that to a private contractor and that costs money. They started last summer and they have done a tremendous job of pruning trees, mowing and weed eating properties once or twice a week. Every project they do puts more cost into maintenance. There has not been a line item in the budget for this cost. He and council member Burk have talked in length about this and they will go ahead and proceed with the Lee Boulevard project and do the maintenance. They will put a six or twelve month moratorium on new projects until they can get this worked out and hopefully they will have a line item for maintenance in next year's budget. He stated council member Burk understands the situation the City is in with so many costs and expenditures. During this fiscal year they will be looking at the parks and recreation budget to see if they can relieve some funding through the 2012 CIP projects and get the \$70,000 back in the budget and look at the budget for next year to make it a permanent item.

Givens stated LETA has a full board of which council member Burk is just one member and he stated it will be up to that board to go along with what is being proposed. It is not going to go over very well without the board having knowledge of what is being done.

Wells stated the council supports LETA and they will do what they can to fund this money, but the council makes the decisions, not the LETA board.

Givens stated the LETA board makes the decision on whether they do maintenance or projects.

Burk stated there will be discussion at the LETA meeting tomorrow regarding this issue.

21. Consider an ordinance amending Section 10-4-402, Article 10-4, Chapter 10, Lawton City Code, 2005, so that it corresponds with Oklahoma State Statute Title 11, Chapter 1, Section 34-104 by altering the current notice provisions and procedures for the sale, donation, transfer, or other disposition of unclaimed personal property that has come into the possession of the Chief of Police; and, providing for severability. Exhibits: Ordinance 2011-\_\_\_\_\_.

Kelea Fisher, Assistant City Attorney, stated this ordinance deals with unclaimed property that comes into the possession of the Chief of Police and the procedures he has to follow to dispose of that property. One of those procedures is that he has to send out notice to the potential property owners. State statute requires that notice to go out by regular mail and our ordinance requires it to go out by certified mail. Staff is asking that the ordinance be changed to match state statute and reduce our costs. State statute allows for property to be transferred to a third party agent and sold over the internet so it expands the manner in which he can get rid of some of this unclaimed property.

MOVED by Haywood, SECOND by Zarle to adopt **Ordinance 11-28**, waive the reading of the ordinance, read the title only. AYE: Tenis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-28

An ordinance amending, Section 10-4-402 Article 10-4, Chapter 10, Lawton City Code, 2005, pertaining to the disposition of personal property, altering the current notice provisions and procedures for the sale, donation, transfer, or other disposal of unclaimed personal property to correspond with Oklahoma State Statute Title 11, Chapter 1, Sections 34-104, and providing for severability.

22. Consider an ordinance amending Section 23-17-1701, Article 23-17, Chapter 23, Lawton City Code, 2005, by establishing conditions under which motorcycles may proceed through red traffic signals, providing for severability and declaring an effective date. Exhibits: Ordinance 2011-\_\_\_\_\_.

Tim Wilson, Deputy City Attorney, stated this ordinance mirrors a new state law that has gone into effect. There are some traffic signals around town that are done by motion and there have been situations where motorcycles don't set off those traffic signals. This ordinance will say that if that situation occurs and if the motorcycle is at a complete stop and the traffic signal does not change and there are not other vehicles in the opposite direction, the motorcycle can proceed through the intersection.

Wells stated they really need to go to microwave on all the intersections because there are a lot of intersections in town now that either the sensors are not working, or like 67<sup>th</sup> and Quannah Parker, the original white line was about five or six feet above where it is at now and the sensors were put in at the original white line. At intersections around town people don't realize when they see that cut in the road that is a sensor for the light and they don't pull up far enough. He stated since the newer intersections are getting the microwaves on them they should consider doing something like that all over town. It would take care of this problem also.

Mayor Fitch questioned if the council would like to address this problem tonight and have management look into the sensors.

MOVED by Wells, SECOND by Tennis to adopt **Ordinance 11-29**, waive the reading of the ordinance, read the title only. AYE: Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 11-29

An ordinance amending Section 23-17-1701, Article 23-17, Chapter 23, Lawton City Code, 2005, by establishing conditions under which motorcycles may proceed through red traffic signals, providing for severability and declaring an effective date.

23. Consider an ordinance amending Section 23-8-803, Article 23-8, Chapter 23, Lawton City Code, 2005, by amending the circumstances in which a driver must yield before making a left turn on the roadway, providing for severability and providing an effective date. Exhibits: Ordinance 2011-\_\_\_\_\_.

Wilson stated this is another ordinance to bring us into compliance with a change in state law. They are taking out language that says within an intersection, which means that the driver of a vehicle that is intending to turn left does not necessarily have to be within the intersection to yield, if there is another vehicle coming, when the other vehicle that is approving is so close as to constitute immediate hazard.

Wells stated if you get a vehicle in an intersection that are not paying attention they may turn into an oncoming car. What he sees a lot of times is someone driving down the street and they see the lights for a turn and they speed up to catch it even though it might turn yellow before they get there and there might be oncoming traffic, so they are speeding up and cutting across traffic to beat the light. He stated he does not know that keeping within an intersection is not a good thing to have in there.

Jensen stated whether you are within the intersection or not, you still have a safety issue. He stated staff thinks it is a good thing to take out within an intersection because if you limit it to that, it is saying you don't have to yield otherwise. You may need to yield because the oncoming traffic comes so quickly that even though you are not within the intersection yet, it is still not going to be safe for you to turn left. He stated if they don't make it then they have violated this ordinance.

Wells stated he is just concerned that they would still be in violation.

MOVED by Wells, SECOND by Haywood to adopt **Ordinance 11-30**, waive the reading of the ordinance, read the title only. AYE: Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Tennis. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 11-30

An ordinance amending Section 23-8-803, Article 23-8, Chapter 23, Lawton City Code, 2005, by amending the circumstances in which a driver must yield before making a left turn on the roadway, providing for severability and declaring an effective date.

24. Consider an ordinance amending Section 23-5-520, Article 23-5, Chapter 23, Lawton City Code, 2005, by requiring persons convicted of driving under the influence to participate in an alcohol and drug substance abuse evaluation and assessment program, providing for severability and declaring an effective date. Exhibits: Ordinance 2011-\_\_\_\_\_.

Wilson stated this is another ordinance that will bring our code into conformance with what is offered in state law. Is someone is convicted of driving under the influence of alcohol or an intoxicating substance, those individuals, after they are found guilty but before they are sentenced, would be required to undergo an alcohol or drug evaluation by a licensed professional and they would have to reimburse that person as required by state law. The

professional would provide an assessment report to the court and the court can require that person to undergo ten or twenty four hours of alcohol/drug substance course prior to sentencing.

Wells stated he wishes there was some way to implant something in people that would disable electronics. Some people it does not matter what you do to them, they get behind the wheel drunk and kill people.

Mayor Fitch questioned at what point to people get an ankle bracelet.

Wilson stated it is dependent upon the court.

Mayor Fitch questioned when they would blow into the tube.

Wilson stated if someone is stopped and arrested they are asked if they want to take the state's implied consent test and if they decline they lose their drivers license potentially for failing to take that test.

MOVED by Wells, SECOND by Haywood to adopt **Ordinance 11-31**, waive the reading of the ordinance, read the title only. AYE: Burk, Givens, Zarle, Haywood, Wells, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED

(Title read by City Attorney)

#### Ordinance 11-31

An ordinance amending Section 23-5-520, Article 23-5, Chapter 23, Lawton City Code, 2005, by requiring persons convicted of driving under the influence to participate in an alcohol and drug substance abuse evaluation and assessment program, providing for severability and declaring an effective date.

#### AUDIENCE PARTICIPATION:

George Nassaney, Lawton Motor Sports, 5110 NW Cache Road, stated they opened the business in 2009. He stated they are currently building a warehouse and he is being required to install a fire hydrant. At the time they purchased the building in 2009 it had a sprinkler system which was non-functional. He applied for a remodel permit and they were going to increase the showroom square footage by approximately 1,000 square feet. He was told that since he was not going to change the occupancy of the building he would not have to bring the building up to code. He contacted the Fire Marshall to see if they could disable the sprinkler system and he was told no because it was in service and they would have to bring it up to code and make it functional. He stated they spent \$12,000 to bring the sprinkler system up to code. In May 2011 they decided they wanted to build a warehouse and they talked with staff in license and permits division to see if there would be a problem with building in this location. Staff told him that metal building cannot be built in city limits unless there is a brick or stucco finish. He stated Richard Rogalski, Planning Director, came out for an inspection and they discussed how the metal would match the existing metal structure they have now. He stated he was told there may be a requirement of a fence behind their location. The next day he got a call from Richard who said that everything was fine and he was told to go ahead and apply for the building permit. He stated to apply for a permit you have to have an engineer's set of stamped plans and the only way to obtain those plans is to buy the building kit. They purchased the kit and he applied for the permit and received the permit a week later and was told there was a problem and he had to put in a fire hydrant in front of his location. He spoke with the Fire Marshall and was told he needed the hydrant because 1) the existing system does not have a hydrant within 100 feet of the fire hose connection on the side of the building 2) there is not a hydrant within 300 feet of the new proposed warehouse. The Fire Marshall came out in 2009 and this was never brought up to him at that point. He requested a meeting with the City Manager, Planning Director and the Fire Marshall to see if they could come up with some kind of a compromise. He received a bid from Pippen Brothers for the fire hydrant which came to \$26,000 which did not include tearing out the front of the location to tap into the line which is 12 feet deep. He stated the warehouse has only cost him \$30,000 and he would not have pursued this project if he had known this would be an issue. He stated during the meeting they discussed the possibility of joining the cost share hydrant with Connor Auto Group located next door. They looked at joining the two together with one tap and put in two hydrants. They were going to tap the water line one time, come up with a T, run an 8 inch line, put one in front of Connor Auto Group and one in front of his location. He met with Bryan Long, Assistant City Manager, and Steve Connor to see if this option would work and all parties agreed and he and Mr. Connor signed the paperwork. He expected this to be placed on the city council agenda. Last Friday he received a call from Bryan Long who told him the city engineers do not want him to run an 8-inch water line parallel to the 36-inch water main. He stated when he bought this building no one required him to put in a fire hydrant because it was not a change of occupancy and he feels the city should have some responsibility involved with this project. With regards to the statement that there is not a hydrant within 300 feet, Milo Gordon Honda is directly east of him and they own two hydrants on the property and he spoke with the owner and he would agree to give access to 300 feet of the warehouse. He stated the new proposed hydrant at Connor Auto Group is 328 feet from his warehouse. He feels with these valid points the city needs to pay to put in this hydrant or not make him put it in.

Chief Bart Hadley, Lawton Fire Department, stated when he moved in 2009 he was grandfathered in because it was considered not a change of use and he was not required to put in the fire hydrant. He stated the sprinkler

system was required when the building was built and is required today. The fire hydrant is related to the new construction of the storage building in the rear. He stated with regards to the hydrant at Milo Gordon, there is no way they can lay hose from those private hydrants across to his warehouse in under 300 feet. He does believe they have a potential solution that would be better for their project and more cost effective than the original cost share agreement between him and Connor Auto Group. He stated their proposal would still meet both conditions and would be the best location from a fire protection standpoint. They need to get information about their sprinkler system so they can run some models to ensure that it will provide adequate water supply to the sprinkler system and still provide enough for fire protection for the building and the warehouse. He stated they would like to meet with Mr. Nassaney and present this solution.

Mayor Fitch questioned if there would be a need for a fire hydrant.

Chief Hadley stated there would be a fire hydrant at the entrance. He stated the line that feeds their sprinkler system, they believe is a 6-inch line and that may be adequate enough to establish a fire hydrant and still allow enough pressure to feed the sprinkler system at the same time.

Wells questioned if the rules had changed since these places were built with regard to the 300 feet.

Chief Hadley stated he does not believe it has. It has been a 300 foot requirement as long as he has been involved in this side of the fire service.

Zarle questioned if there was a hydrant near the veterinary clinic.

Chief Hadley stated no, there is not a fire hydrant from the Stripes at the corner of 53<sup>rd</sup> and Cache Road all the way past the Milo Gordon center.

Mayor Fitch questioned why the 8-inch line would have to run parallel to the 36-inch line if they shared with Connor. Why couldn't they run the 8-inch line going south.

Chief Hadley stated there would be additional issues because they would have to lay the line through Connor and there would have to be a dedicated fire lane. He stated this proposal would still be more expensive than the proposal they have to offer.

Mayor Fitch questioned if Mr. Nassaney was willing to meet with staff to discuss this proposal.

Mr. Nassaney stated no. He stated the Fire Marshall came out in 2009 and Mr. Rogalski came out this year and there was no mention of the hydrant until the permit stage, which was too late because the money was already put down. He stated this building is only 2,400 square feet, has no insulation, no gas or electricity, and he is being required to spend \$6,000 - \$10,000 to put a hydrant in. He stated he would have never started this project if he had known. He built this same warehouse in Altus and had no problems. The state guidelines say 400 feet and the city has adopted the 300 feet. He stated these motorcycles are in crates and they have no gasoline in them, they come straight off the semi for storage. When they opened in 2009 the dealership was broken into three times with people cutting the fence and stealing merchandise out of the back. He feels like he has done everything to work with the city and he is getting no cooperation.

Bryan Long, Assistant City Manager, stated there are two issues. The technical aspect of the disagreement is one, but there is also Council Policy 6-4, which stipulates the guidelines of the cost share which city staff has to look at. He stated the reason this item did not make it to the council in a formal agenda format is because staff was still in a fact finding process. It only comes to the council when he has either approved or denied the request. He stated there really are at an impasse and instead of denying this request because it does not meet the threshold of Council Policy 6-4, staff has taken the time to try and work through these issues and look at five or six different issues to explore. He was told about the possible solution right before this meeting.

Wells questioned what the solution was going to cost if it works.

Long stated it depends how deep they have to dig and the materials involved. He stated this option would still not meet the cost sharing requirements of Council Policy 6-4 because there is not a public benefit ratio that exceeds 50%.

Wells stated it seems that this will benefit the vet clinic and the church.

Chief Hadley stated there is already a proposed hydrant approved to go in with the cost share agreement with Connor Auto Group.

Haywood questioned Jerry Ihler, Public Works Director, and asked for his opinion on a solution.

Ihler stated the proposed cost share hydrant with Connor Auto Group will take care of everyone on the west side of Bark Avenue, but it does not meet the requirement of the 300 feet for this storage building. The alternative they looked at late this afternoon was the fire line that serves the sprinkler system which they believe is a 6-inch line. They believe they can T-off of that 6-inch line and place a fire hydrant on that line. They need the particular details of his sprinkler system that was rehabilitated in 2009 and with that information they can run the model and they believe this will take care of this particular building. This is the most cost effective alternative to cover all of these situations and meet the codes. Unfortunately this hydrant would just serve one business and it does not meet the requirement of Council Policy 6-4 where the city matched up to \$10,000.

Wells stated if they let people build in there without meeting code, then that is our responsibility, not one individual owner that comes in later on.

Mitchell stated that is the reason for the policy to assist those businesses that are supporting other businesses in the neighborhood.

Wells suggested they come up with some policy that says that all of the other businesses have to share the cost.

Mitchell stated with the policy the city is assisting in the placement of the fire hydrant by paying up to \$10,000 to install it and we pay for the material cost for that improvement.

Wells stated the city did not require the hydrant to start with and now we are going to make one individual put in something.

Mitchell stated they didn't require that in 1983.

Burk questioned if they could cost share with the hydrant that is being proposed. He questioned what they had to do to overrule the policy. He would like to see them help out on this issue.

Bellino-Hall stated this is her ward and she has met several times with Mr. Nassaney and he is trying to do the right thing. She went out and looked at the building and this storage building will only be used for crates and motorcycles. He already has a sprinkler system in the main building and now the city wants him to put in a fire hydrant just because he is building a metal building. It makes no sense to her that the hydrant will only be there in case he has a fire in the metal building.

Tenis stated he remembers last year they made Western Hills Church do the same thing because they built a small metal building to put lawn mowers in.

Mitchell stated that was a cost share.

Wells stated at the church there was the potential for someone else to build next to it and use the hydrant.

Chief Hadley stated if the cost share request is denied by staff, the applicant has the ability to appeal to the council and the council has the ability to approve the cost share or not.

Burk stated he feels they need to cost share on this.

Givens stated if he does not comply with the fire code he will not be able to insure that building and the contents.

Jensen stated there needs to be a determination made by staff so that it can come back to the council at the next meeting.

Ihlers stated prior to that, he needs to go ahead and have his engineer provide staff with the information with regards to his sprinkler system so they can determine if they can go with this more cost effective alternative.

Mr. Nassaney stated that the company that did the sprinkler system update is no longer in business. He questioned what he should do. He stated he is willing to work with the city if the city is willing to cost share this project.

Mayor Fitch suggested Chief Hadley, Ihler and Long meet with Mr. Nassaney and get this thing resolved and bring something back to the council in two weeks.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Givens stated he and the City Attorney have a difference of opinion about this council being able to do away with an ordinance by a simple motion. He stated the City Attorney has given him some research that he does not agree with. He would like to see the council consider a council policy saying that an ordinance can only be amended or



done away with by an ordinance. He stated there are some ordinances that require a super majority of six affirmative votes and if you follow the City Attorney's logic, he is saying that a simple majority of five affirmative votes could do away with an ordinance that originally required six affirmative votes. He does not feel this is right.

He does not feel that they can sit up here and discuss and do away with a provision or tell staff not to enforce a provision of an ordinance. The proper way is to bring back, as soon as possible, an amendment to that ordinance or a new ordinance. He questioned how he can get a policy considered.

Mitchell stated he can assist in drafting the policy. He reminded the council of a CIP workshop to be held tomorrow, July 13<sup>th</sup> at 1:30 in new city hall. He stated the audit should be done by the end of the month. He stated they are testing the system which will let us take credit cards and it should be ready to go by the first of next month.

Rick Endicott, Finance Director, stated it should be operational by August 1<sup>st</sup>. Everyone will be able to pay their water bill and hopefully they will add license and permits in the future. It is not the type of system where we will swipe cards it is completely on line. Payments can be done on line or by phone. He stated in new city hall a kiosk will be provided.

Wells questioned if there will be a fee.

Endicott stated yes, the minimum fee will be \$3.50.

Mitchell stated he will be attending a workshop and on vacation the following week.

The Mayor and Council convened in executive session at 7:34 p.m. and reconvened in regular, open session at 9:23 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

25. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Nathan M. Johnson as Municipal Judge, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item #25. No action was taken.

26. Pursuant to Section 307(B)(3), Title 25, Oklahoma Statutes, consider convening in executive session to discuss the appraisal/proposed sale of approximately 50 acres, more or less, of City-owned real property in the vicinity of NW 67<sup>th</sup> Street and Rogers Lane, as authorized by Ordinance No. 11-07, and take appropriate action in open session. Exhibits: None.

Jensen read the title of item #26. No action was taken.

27. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including the purchase/transfer of property and financing in connection with the Lawton Downtown Redevelopment Project, for the hotel-conference center and the mixed-use commercial retail establishments and take appropriate action, if necessary, in open session. Exhibits: None.

Jensen read the title of item #27.

MOVED by Zarle, SECOND by Haywood to authorize payment of interest not to exceed \$600,000 during the fiscal year 2011-2012 in the Lawton Economic Development Authority's (LEDA) \$12 million capital improvement note from available monies in the economic development fund of the hotel/motel tax in accordance with the City's agreement to support LEDA whereby the City conditionally agreed as limited by Oklahoma law that if for any reason the principal and interest on the note are not paid as due the City will transfer to the authority from any legally available funds amount sufficient to pay the principle of and interest on the note when due.

Wells questioned why the word principle was in the motion.

Jensen stated that is the language from the agreement of support. The motion is limited to the interest for this allocation.

Wells questioned if this was only for the payment of the interest.

Jensen stated yes. The latter part of the language was verbatim from the agreement of support which would authorize this transfer of funds.

VOTE ON MOTION: AYE: Givens, Zarle, Haywood, Wells, Tennis, Burk. NAY: Bellino-Hall. MOTION CARRIED.

MOVED by Zarle, SECOND by Haywood to authorize the Lawton Economic Development Authority to obtain an extension of the maturity date on the \$12 million capital improvement note for a period of up to twelve months on the terms and conditions acceptable by LEDA and subject to final approval by the City Council as required by Oklahoma law. AYE: Zarle, Haywood, Wells, Tennis, Burk, Givens. NAY: Bellino-Hall. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:28 p.m. upon motion, second and roll call vote.

/s/ Fred L. Fitch  
FRED L. FITCH, MAYOR  
ATTEST:

/s/ Traci L. Hushbeck  
TRACI HUSHBECK, CITY CLERK